

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LAURA LIMA,)	4:05CV3172
)	
Plaintiff,)	
)	MEMORANDUM
vs.)	AND ORDER
)	
STATE FARM FIRE AND)	
CASUALTY COMPANY, et al.,)	
)	
Defendants.)	

This matter is before the court on a “motion to dismiss” filed by the defendant, State Farm Fire and Casualty Company, on July 27, 2005. No response has been filed by the plaintiff.

State Farm contends that Nebraska law applies to all claims alleged in the plaintiff’s complaint, and that punitive or exemplary damages sought with respect to the second and third claims (bad faith and defamation) are not recoverable. I will treat State Farm’s motion as a motion to strike the plaintiff’s prayer for punitive or exemplary damages, and, as such, will grant the motion because it does appear that Nebraska law is controlling. The Nebraska Supreme Court has repeatedly held that punitive or exemplary damages are not allowed because they contravene the state constitution. See Distinctive Printing and Packaging Co. v. Cox, 443 N.W.2d 566, 574 (Neb. 1989).

IT IS ORDERED that the defendant’s motion to strike (filing 32) is granted, and that the plaintiff’s prayer for punitive or exemplary damages is stricken.

September 6, 2005.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge